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SPEECH

HON. JAMES DIXON,

(OF CONNECTICUT,)

DELIVERED IN THE

SENATE OF THE UNITED STATES,

FEBRUARY 27, 1866.

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HON. JAMES DIXON

(OF MASSACHUSETTS)

MEMORANDUM

STATE OF NEW YORK

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IN SENATE

REPORT

OF THE COMMISSIONERS OF THE LAND OFFICE

FOR THE YEAR 1887

1888

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S P E E C H .

The Senate resumed the consideration of the following resolution from the House of Representatives :

"Resolved by the House of Representatives, (the Senate concurring,) That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation."

Mr. DIXON. Mr. President, the Senate has been addressed since the reception of the veto message by the Senator from Illinois, [Mr. TREMBULL,] the Senator from Maine, [Mr. FESSENDEN,] and the Senator from Ohio, [Mr. SHERMAN,] in speeches which, as specimens of parliamentary debating, are seldom surpassed in this Chamber. With many of the opinions expressed by the Senator from Ohio I entirely agree ; and while I shall differ somewhat from the other Senators, I admired in common with the entire Senate the spirit and tone, not less than the ability, which they brought to the discussion. It was interesting to notice how the emotions which excited the minds of both these Senators, suppressed and subdued, yet not entirely concealed, added new vigor to their language, a fresher coloring to their ideas, and the energy and ardor of controlled and subjected passion to their manner, reminding us of the volcanic fires pent up and smothered in the breast of the mountain, which stimulate and invigorate the luxuriant growth on the surface. Both these Senators were deeply excited by the position taken by the President. They are not men quietly to brook opposition, yet they both spoke of him in measured terms of respect. The Senator from Maine, in particular, used language which I gladly quote :

"I believe that the President is a friend of his country. I believe that he is a patriotic, devoted citizen ; that he would do nothing to injure any of its institutions "under any circumstance if he was aware, while doing it, of what he was doing."

Yet, when I heard these words from the lips of the Senator, I confess that I felt that they were not much for him to say. I thought it was not much for that Senator to say of him who, when the rebellion broke out—then a member of this body—stood alone of all his southern colleagues faithful among the faithless ; who, without any possible hope of other reward than the approval of his own conscience, turned away from all the temptations which beset and overpowered almost every other Union man in the South, who, when the war raged in Tennessee, left these seats where we reclined at ease, and, in the midst of rebels and murderers, suffered for his country in mind and in body, by himself and in his family, all that man could suffer and yet live ; I say I thought it was not much for the Senator to say that such a man was a friend of his country, that he was "a patriotic, devoted citizen" "who would do nothing to injure any of its institutions while aware of what he was doing." No, sir, it did not, when I heard it, seem much for the Senator to say. Yet when I considered when and where it was said, the time, the circumstances, I acknowledged it was much. When I reflected that it was said, when a leader, made such by his party, in another place, was declaring that the veto, the constitutional return of the freedmen's bill with the President's objections thereto was an act of usurpation ; when I remembered that leading journalists were denouncing the President as a deliberate and dishonored traitor ; when I recalled the fact that a distinguished Senator had, in consequence of the veto, thought it his duty to introduce a resolution proposing an amendment to the Constitution of the United States rendering the President ineligible to a second term of office, I felt that it was very much for the Senator to say, contrasting, as I did, his calmness and candor with the unbridled passion elsewhere exhibited.

In view of this expression of confidence by the Senator from Maine in the President, in which I most fully share, I desire to say a few words on the subject of the resolution now before us ; but before I do so I wish to imitate the example of the Senator from Maine in expressing my sentiments on another subject. He took occasion, while discussing this resolution, to allude to the veto message itself. I shall say a few words upon that question; and permit me to remark that I felt very much in regard to the Freedmen's Bureau bill as the Senator from Maine said he felt. I voted for that measure, but I voted for it with some degree of reluctance. I thought it liable to objections; but I yielded my objections as I have often been in the habit of doing, and probably again shall be in the habit of doing, to those in whose judgment I have more confidence than I have in my own. But, sir, I never looked upon that measure as a principle. - I looked upon it merely as a measure of detail, a mode of doing a certain thing desirable to be done. When I voted for it I did not suppose myself voting for any principle; I thought I was saying that as a measure it was proper to be adopted. But when I found that the President of the United States, who was to execute that law, had himself such objections to it that he could not sign it, I was willing to yield my judgment to what I thought might be his better judgment.

I had, sir, another reason which I will frankly state. It is my belief—right or wrong—that what is known as the policy of the President for the restoration of the late seceded States in this Government is the correct policy—I believe it is the only safe policy.

Mr. WADE. I hope the Senator will tell us exactly what that policy is.

Mr. DIXON. Before I conclude I shall state what I understand to be that policy. If the Senator will permit me I will state it in that part of my remarks to which I have in my own mind assigned it.

Now, sir, I may be wrong; I think I may say that over-confidence in my own judgment is not among my faults; but I believe, as religiously and sincerely as I ever believed in any doctrine, that the only mode of saving this country from the perils that now surround it, is that mode which the President of the United States is inclined to follow. Believing that, I am willing, for the sake of supporting that policy, to drop all questions of detail. I will not differ with him upon questions of detail, if I think that by so doing I shall impair his influence in the great work in which I believe he is engaged.

The Senator from Ohio has asked me what is the President's policy. I have not yet come to that point; but I desire to say that with regard to myself upon this subject, I occupy no new ground. It is said by some that there are those who are following the President, who desire to court executive favor. It is hard to believe that there is any Senator here who would give up his own convictions of duty for the sake of executive smiles. I trust I should not do it. But, sir, I had the honor, more than three years ago, of taking in the Senate of the United States the same position which I now occupy; for some reason, I know not what, I anticipated this discussion. I supposed when our Army was before Richmond, in 1862, that in a very short time Richmond would fall, and the confederacy would fall with it. It was only a question of time. What I thought would take three weeks took three years; but, sir, the fall of Richmond and the fall of the confederacy came, and with it has come the question which I thought then would come in a very short time. I took the liberty to offer in the Senate a resolution which I will read. Of course I do not quote it, nor anything I said on that occasion, as having the slightest authority, but I quote it to justify and defend myself before my constituents, and before this body, and to show that the position which I now take was not taken for this occasion, and because the President of the United States happened to take it, but because I believed it to be right, and for that reason I now sustain it. I offered the following resolution a few days previous to the 25th of June, 1862:

"Resolved, That all acts or ordinances of secession alleged to have been adopted by any Legislature or convention of the people of any State are, as to the Federal Union, absolutely null and void; and that while such acts may and do subject the individual actors therein to forfeitures and penalties, they do not in any degree effect the relations of the States, wherein they purport to have been adopted, to the Government of the United States, but are, as to such Government, acts of rebellion, insurrection, and hostility on the part of the individuals engaged therein or giving assent thereto; and that such States are, notwithstanding such acts and ordinances, members of the Federal Union, and as such are subject to all the obligations and duties imposed upon them by the Constitution of the United States; and the loyal citizens of such States are entitled to all the rights and privileges thereby guaranteed or conferred."

That resolution was offered by me, and while it was under consideration I took occasion on the 25th of June, 1862, to make some remarks upon it. I will read very briefly

from those remarks ; and I desire to apologize to the Senate for reading what I then said. Of course, I do not read it as authority, but as a defense of my own action now. I said :

"And here I wish to say that, although the importance of the subject would have justified me in so doing, I have not initiated this discussion. The resolution which I offered in the Senate, declaring, as I believe it does, truths of immense importance to the nation at this crisis, was not offered by me until the Senator from Massachusetts [Mr. SUMNER] had proposed a series of resolutions declaring an opposite doctrine, which I consider fatal to our form of Government, destructive of our Federal system, and utterly incompatible with a restoration of harmonious relations between the States in which the rebellion now prevails and the United States."

"In our present struggle to support and maintain the Government of the United States, we are tempted to forget that the time may come when the just prerogatives of State authority may require defence. The arm of the central Government, when once its control is re-established throughout all our domain, will be more powerful than ever. Strengthened by the exercise of its vast and irresistible energies, its imperial mandates will everywhere within its jurisdiction command respect and obedience. What encroachments it may be tempted by power and opportunity to make on the proper sphere of State authority, we cannot foresee ; but it is certain that for a long period after the rebellion is suppressed and until its memory shall have in some measure faded from the minds of men, the popular inclination will be to strengthen the Federal at the expense of the State governments. The power which their arms, their treasure, and their blood will have rescued from destruction, will be the favorite power of the people. Its encroachments will be viewed, not as before, with watchful jealousy, but with favor or indifference, while State authority will be viewed as that dangerous and usurping influence that once attempted to overthrow the Government of the Union. This is a consideration which ought not to be forgotten by the people of the smaller States ; and it may be well for them to remember that in the generations to come, through which our Federal system is to endure, their posterity may find in the just rights of the State governments, their surest protection against a central despotism. * * * * *

"Perplexing as is the question of the conduct of the war, there is another, which, to thoughtful minds, is not less difficult and embarrassing. It is this : when armed resistance to the authority of the Federal Government shall cease, and active rebellion and insurrection no longer exist, what will be our condition and our policy ? Will the Government of the United States be re-established throughout thirty-four States united under that Government, or will a portion of these States, having shot madly from their spheres, have ceased to be States in the Union, and have become provinces—territorial possessions—to be governed as such by the central power ?

"This is the question of the day. On this the people of the United States are to act ; on this parties are to be formed. On one or the other side of this question the intelligent, thinking people of the United States are to range themselves. The war has now brought them virtually together. On the question of its prosecution, there has been, and is at this moment, really no division of opinion worthy of notice in the loyal States ; but when the war shall cease, the question which I have proposed will denude their decision, and the diversity of opinion which will exist may be easily foreseen from that already manifested here and elsewhere. What the final decision of the people will be, in my mind, does not admit of a doubt. It may be given in the terse, expressive, prophetic language of Andrew Jackson : 'THE FEDERAL UNION : IT MUST BE PRESERVED.'"

I attempted by such reasoning as I could command and such illustrations as I could offer to show that my resolution was correct in principle ; and, among other things, I made these remarks :

"Let us see whether even in point of fact, this is true. Take the case of Tennessee. She has attempted to pass an ordinance of secession, which has been followed by open rebellion and armed resistance to the General Government. For a long period no loyal citizen could live in peace in that State. Those who held to their allegiance to the General Government were banished. The family of one distinguished patriot, a citizen of Tennessee and a member of this body, were driven from their home, and he was himself exiled."

He is now President of the United States.

"All that was required for the complete dismemberment of Tennessee from the Union had taken place in that State ; and if it were possible for any State, by her

"own act, or the acts of her people, to cease to be a State in the Union, Tennessee ceased to be such. Yet, how did the Senate treat the fact? No matter what may be the law, the fact, it is said, is the test of the true condition of the State; and what was the fact in the opinion of the Senate? Every day the name of Andrew Johnson was called by our Secretary, and as a member of the Senate of the United States he answered to his name as a Senator from Tennessee. Was he a Senator? Was he as such entitled to his seat? Was Tennessee entitled to be represented in the Senate? If so, was she not a State in the Union notwithstanding the prevalent rebellion by which she was overrun and devastated?"

It may be said in reply to that, that Mr. Johnson, then a Senator here, being once a Senator was always a Senator. That is not so. If Tennessee had become a portion of a foreign country, a portion of Great Britain, for instance, and was engaged in war with us, would she be represented in this body? Should we not have excluded him? Have we not the power of self-defense? I beg Senators to tell me if that is so, whether every State among the seceding States could not have held its representation in this body, because a man once a Senator is always a Senator? Would the Senate have admitted the right? Not for a moment. They would have said self-defense requires us to exclude a Senator in such a case.

I made the same supposition with regard to Virginia. I made the supposition of a more extreme case: that Messrs. Hammond and Chesnut, then Senators here from South Carolina, had thought it their duty to remain here in spite of the act of secession passed by that State, and perform their sworn duty to the Government; and I asked the Senate if they could not have remained here; and furthermore, I asked the Senate if it was not their duty to remain, and if every loyal citizen of South Carolina had not a right to demand of them to remain in this body as Senators from South Carolina, although nine-tenths of their people were engaged in rebellion; and there was no Senator here at that time prepared to say that my position was not correct. I of course do not say that this was conclusive. The subject then was not fully considered. But, sir, on that very day a debate sprang up, and the subject was thoroughly discussed. The Senator from Michigan [Mr. HOWARD] and the Senator from Ohio [Mr. WADE] both spoke on the subject; and the position which I took, although it excited some doubt in their minds, excited no horror. I was not looked upon as a heretic because I took this position. It was considered that there was some doubt with regard to it. The Senator from Michigan said he thought there was a difficulty, and rather intimated that he differed from me; but he did not take the ground that my position was either heretical or unpatriotic. Throughout the country at that time, wherever this position was noticed, the loyal press of the country, especially in my own State, defended that resolution. Almost every newspaper in the State declared it to be the true doctrine; and the Legislature of the State, then in session, adopted, I think, resolutions of a similar character.

I trust I shall be pardoned for having thus alluded to remarks of my own. I went on further in that speech and attempted to show what I believed to be the true policy and the true theory on the subject. Of course I shall not weary the Senate with reading what even then, when it was freshly said, was not perhaps worthy of attracting much attention. That was the position that I then took; and am I now, when the President of the United States takes the same position, to turn upon him? Am I to say that he is wrong? Am I to be denounced because I hold to the same position now which I then held, notwithstanding the President of the United States occupies it? I believed then that the doctrine was correct. It has been fully argued since; able speeches have been made upon it; immense talent in this body and in the other House has been exhausted upon this subject; and yet I have never been able to see that my position then taken has been successfully controverted. I believe it to be correct. I thought it right then; I think it right now. If I am wrong now, I was wrong then, and have been utterly and entirely wrong ever since.

Under this state of things, a bill was before us establishing a Freedmen's Bureau. As I said, I voted for it, not without doubt, not without hesitation; and I had occasion for reasons I have given to change my vote; and when the President's veto came in I voted to sustain the veto and against the bill. I thought the bill most decidedly objectionable. I desire to refer to a few remarks made by the Senator from Illinois [Mr. TRUMBULL] in his defense of the bill against the veto, and for a reason which I shall soon state, I shall not have occasion to dwell long on that portion of the subject, nor upon the remarks of the Senator from Illinois. I will refer to only one or two of the points made by him.

He said that the President's objection that the bill established the Freedmen's Bureau as a part of the permanent legislation of the Government was not correct, that it was

not a permanent act; and what reason did the Senator give for saying that it was not a permanent act? He said it could be repealed; that the act provided that it should continue in operation until by law it was provided otherwise. Is not that the case with every law? Can you make a permanent act in this Government? Is it possible to pass an act that cannot be repealed? Suppose you had said in that bill that it should continue in force for fifty years, would it have been permanent in consequence of that? Would not the next Congress have the power to repeal it? It was as permanent as any law enacted by the United States can possibly be made. There should have been a limitation of time in it, and in the first Freedman's Bureau bill there was such a limitation. It was limited to one year after the commencement of peace. In this bill there was no limitation; it was to continue in force until repealed, and therefore was as permanent as it was possible for the Congress of the United States, by any legislation, to make any act whatever.

The Senator then said that the President's objection to military jurisdiction was not a good objection, because the President had been up to this time exercising the same jurisdiction. Does it follow that because the President of the United States has exercised military jurisdiction up to this time, therefore in a permanent act of legislation you should authorize him to do that for an indefinite period? That was the point that the President made: this is a permanent act; you authorize permanent military jurisdiction in civil cases; and because I exercised it last week, shall I be empowered to exercise it next year? I think there was a vast difference between the two cases.

Then the Senator alluded to the intimation that this was a bill for the advantage of black men, rather than of white men. I desire to say that if that were the case it is not the slightest objection to my mind. I think it was made for black men in point of fact, and because it was made for black men was no objection to me. I am not one of those who could ever understand why because a man is called conservative he should hate the colored population, or why because he supports the principles of this Government he should have an aversion or prejudice toward that population. If there are those who have that feeling, I am thankful that I am free from it. It was no objection to my mind that the bill was intended for the benefit of black men. The fact cannot be denied that it was so intended. Was it not called a Freedmen's Bureau? Are white men freedmen? Was it not to feed and support the wards of the nation? Are white men wards of the nation? I voted for it with that understanding that it was for the benefit of black men; and I am ready now, by my vote here and elsewhere, and so are my constituents, to do anything, as much as any other people will do, to pay their money as freely and exert themselves as earnestly for the benefit of black men as for the benefit of white men. I place them on the same ground. I know no distinction in my feelings, in my sympathies, in my charities, between black men and white men. I have no preferences in that respect. There may be subjects on which I have preferences, but in the matter of kindness, of doing them a favor, of saving them from suffering, I should never ask whether the suffering man was a black man or a white man. It is enough for me to know that he is a man.

But, sir, I will not follow the Senator from Illinois further, and for a reason which I shall now proceed to give. His speech was one of ability, and we had the points that he made given at full length in the papers the next day. He gave sixteen reasons for opposing the President's veto and supporting his bill. But, sir, I am not called upon to answer those reasons; the Senator from Maine [Mr. FESSENDEN] has relieved me of that labor. He has answered them for me. What did the honorable Senator say here in his place? I will quote his exact language. He said:

"I will say in regard to that message that I had no very particular attachment to the bill which was thus vetoed."

Neither had I. I felt very much as he did. The Senator continued, as follows:

"In some particulars it did not meet my approval. I think some of the reasons which the President gives for not approving it are such as would commend themselves to public consideration. It is a bill upon the provisions of which there might be a very considerable difference of opinion. I yielded, however, the objections I had, and one of them was very much like that stated by my honorable friend from West Virginia [Mr. WILLEY] to the sixth section of the bill, because I thought, on consideration, that the power did exist, and it was especially necessary to exercise it, and the bill therefore received my vote. If the President had confined himself in the objections which he stated to a criticism of the bill itself, it is very possible that I might have been quite willing to waive my own feelings and opinion in regard to the bill as it passed, and to sustain his veto."

I think it was perhaps a misfortune to the public that the President, in view of that declaration, did not stop at the point where the Senator from Maine was satisfied with the veto. I could almost wish that the President had not given that last reason after having given fifteen good reasons which the Senator from Illinois attempted to answer and with which the Senator from Maine was satisfied. What moral power would have been added to the President's position and the position of those of us who voted to sustain the President, if the distinguished Senator from Maine had voted with us. I could wish that the President when he had given fifteen good reasons for rejecting this bill had not given that additional reason which does not satisfy the mind of the Senator from Maine. It is not for me to comment on the action of any Senator in this body but I may say that it struck me as somewhat remarkable that the Senator, finding a bad bill here and a veto sustained by good reasons, should refuse to sustain the veto and impress his condemnation upon the bill because one bad reason was given for its disapproval by the executive.

Sir, if we all acted on that principle, I do not know what would be the result. I have voted for many measures for which good speeches have been made and for which some bad ones have been made, for which some good reasons and for which some unsatisfactory reasons have been offered. I never felt that I was justified in voting against a bill because some of the reasons given for it were unsatisfactory.

But the Senator says, and I wish to do him no injustice, that he voted for the bill and against the veto because the principle involved in the bad reason was such that his vote would seem to sustain the principle; and he went on to say that in his judgment he could not vote otherwise than he did with self-respect. Perhaps if we had thought as he did, we would have done so. Fortunately, we did not think so. We did not consider a principle involved in it, therefore I for one did not violate my self-respect by voting for a measure which the Senator himself declared very objectionable, and which might have received his negative vote if one reason had not been given which was unsatisfactory to his mind.

But the Senator says that the reason involved a principle. I confess I have not yet been able to see that the principle which he said was involved in that reason was really involved in it. The Senator says in the first place that the President gave this as a reason for the veto, and when that was denied by the Senator from Wisconsin, [Mr. DOOLITTLE,] the Senator from Maine with some degree, as I thought, of severity insisted upon his assertion. True it was a reason. It was stated as a grave objection to the bill; but does not the Senator's own experience show him that a Senator may have grave objections to a bill and still vote for it? It is possible that the President of the United States, notwithstanding this grave objection to the bill, might have sent it back with his signature but for the other reasons which he gives us, and which the Senator himself is not prepared to say are not good and sufficient.

I think, therefore, that it does not follow that the President would have vetoed this bill in consequence of the last reason given by him. But suppose he had; suppose that had been sufficient in his mind. The Senator goes on to say that the President takes the ground that not only that bill must be vetoed, but every other bill relating to the States formerly in rebellion, if that doctrine is correct. I think this inference follows still less than the other. It does not follow in my mind at all. In point of fact what has the President done? He has already signed one bill at least—and I do not know but on inquiry at the Secretary's table I should find more, relating wholly to the southern States, notwithstanding they are not represented—and that was the bill for paying the expenses of this very joint committee.

The Senator says that the President takes the ground that taxation and representation must go together, and therefore he infers that the President believes you cannot tax those States unless they are represented. Sir, the President takes no such ground. He knows full well that taxation must exist. The Constitution of the United States provides that duties upon imports shall be the same in all parts of the country. We must therefore have taxation. The President of the United States in one of his proclamations extended the internal revenue system over the whole South. Taxation exists there, therefore, by his own act; and yet the Senator says that the President claims that taxation cannot exist unless representation also exists. What the President said was, not that taxation should cease, but that representation should begin. He is not arguing against taxation, but for representation; and he says that inasmuch as we must tax these States, they ought, in a manner which I shall soon indicate, to be represented. I think, therefore, that those Senators who voted to sustain the President's veto and against the bill, may feel that they have not violated their self respect, as the Senator intimated. They did not think that it involved the principle which he saw in it.

Now, sir, we have the objections which the Senator from Illinois made to this veto, fifteen in number, fourteen of which relate to the mere criticism of the bill made by

the President, and those objections the Senator from Maine, by his declaration that possibly he might have voted to sustain the veto if this last had been omitted, adjudges not sufficient to influence the action of the Senate. I therefore need not answer them further. He has answered them for me.

But the Senator from Maine says that the President in the last reason given by him for the veto of the bill denies the right of Congress to judge as to the entire question of representation. He said that this was an assumption on the part of the President. When the Senator from Wisconsin intimated that there was no such assumption, the Senator from Maine, not being so deeply impressed by his own language as those who hear him, denied that he had used the word. He will find on reference to his reported speech that he took the ground stated by the Senator from Wisconsin, and used the language cited by him.

Mr. FESSENDEN. I will state to the Senator that upon looking over the debate as reported in the Globe I saw that there was that expression in my first remarks, so that it might justify what was said by the Senator from Wisconsin, [Mr. DOOLITTLE,] but it escaped me at the time.

Mr. DIXON. Other Senators remember what the distinguished Senator says better than he does himself. His words are not forgotten. It is not *vox fugit* with him. What is said by him is remembered.

Mr. FESSENDEN. You will notice that in what I afterward said I took the ground I have uniformly contended.

Mr. DIXON. Of course I wish to represent the Senator fairly. He took the ground that the President of the United States claimed that Congress had not this right. I do not understand that the President takes any such ground. I take no such ground. But how shall Congress do that? I will state the position which I occupy on that point. Whether it is the President's position or not, I cannot say. I think it is, because he told us in his message that these men had now come to the doors of Congress, and it was for Congress, each House for itself, to say whether they should be admitted as representatives. I acknowledge the necessity of examination, I acknowledge the duty of examination on this entire subject by Congress. In what way? As the Constitution points out, each House for itself. Is not that sufficient? All through his speech the Senator intimates that if we come to this position it is merely a question of credentials, that we can only examine the credentials of election. Over and over again he says that we are merely to examine the credentials of members because we desire each House to examine for itself into the question. In my judgment, it is not a question of credentials. I think the language of the Constitution is full. The elections, qualifications, and returns of the members shall be considered by each House.

But, sir, if I am mistaken on that point it so happens that I have here an authority which the Senator from Maine perhaps will be apt to question, as he probably would not desire to say that he himself was an authority, but which the Senate will not be apt to question. It is the Senator himself. In the discussion of the Stark case this very question arose. It was claimed that Mr. Stark was disloyal, and therefore the Senate could exclude him, that the Senate could meet the question *in limine*, that we were not bound to wait until he was admitted as a Senator and then expel him by a two-thirds vote. I took that ground myself. The Senate overruled it. I thought that the vote of the Senate on that question was disastrous, and I said so; and the Senator who then occupied the seat that I now occupy [Mr. COLLAMER] told me afterwards that my remark was a very objectionable one. The honorable Senator from Massachusetts [Mr. SUMNER] also thought that the vote was disastrous, and he rose and said that he concurred with me.

The Senate refused to reject Mr. Stark, many Senators placing it on the ground that we had no right to do it. But the Senator from Maine said the fact was not proved, and then he went on to say what the result would be if the fact was proved; and that was on the question of credentials. It was on the question of the qualifications, elections, and returns of a member. Mr. Stark came here, and *in limine* we objected to him. What did the Senator from Maine say? He said what I think was entirely correct.

I quote his language:

"Suppose, for instance, that one of the leaders of this rebellion should present himself here; suppose the State of Tennessee should come back to the Union being freed of those who now control it, and that a Legislature properly elected should send General Pillow here as a Senator from that State; I would vote that he should not be allowed to take the oath, because though not a convicted traitor, he is admitted traitor. I would not allow him to come here by my vote; and if the Senators ask me upon what principle I act, I tell them I act upon my own individual responsibility as a Senator of the United States. It is for me to judge both with regard to

"expulsion and with regard to admission ; and it is between me and my conscience, "myself and my God, who will judge me for the manner in which I discharge my duties to my country."—*Congressional Globe, Part 1, Second Session Thirty-Seventh Congress, p. 870.*

The Senator from Maine there laid down the correct principle. Upon the question of credentials this whole question is before the Senate, and it is for us to consider on that question whether the member presenting himself here for admission is a traitor, or whether he is true to his country.

Mr. FESSENDEN. Will the Senator allow me to ask him a question? I do not wish to interrupt him.

Mr. DIXON. I am perfectly willing to be interrupted.

Mr. FESSENDEN. Does the Senator understand me now as contending that on the question of credentials the whole question is not before the Senate?

Mr. DIXON. No, sir.

Mr. FESSENDEN. Then there is no contradiction.

Mr. DIXON. I am not claiming that there is a contradiction. I will state what I understand the Senator to mean.

Mr. FESSENDEN. I say now that unquestionably the whole thing is before the Senate; but I say with reference to the preliminary question, as to the condition of the States, that question may properly be left to both Houses to act in concert upon it, because it does not involve the elections, qualifications, and returns of members.

Mr. DIXON. The Senator now says that that question may properly be left to both Houses. The Senator told us before that it must not be left there.

Mr. FESSENDEN. Under existing circumstances I think it should and must be left to them. I do not think it absolutely essential in all cases, but under existing circumstances I suppose it must properly be left there.

Mr. DIXON. It is impossible for any man to read the speech of the Senator without perceiving that he stated in at least a dozen instances that this is the ground on which we place it, a mere question of credentials, upon which we can go no further, and therefore he says Congress ought to decide, because if the Senate decides for itself it is a mere question of credentials.

Mr. FESSENDEN. Not at all.

Mr. DIXON. If the Senator admits that that is as good a way as the other, and as proper as the other, he and I have no controversy.

Mr. FESSENDEN. The Senator follows out the ideas suggested by the President. I stated what I understood the President to contend for; I do not know that he meant it. I only say that that is the inevitable inference, according to my judgment. I have no doubt on the mere question of credentials presented to the Senate alone; we could examine the whole subject if we saw fit, but I contend that under existing circumstances, and from the importance of the question, the preliminary inquiry as to the condition of the States should be settled by the joint action of both Houses in all these cases in order that there may be no collision between them. That question does not involve the question of the propriety or the regularity of the returns, qualifications, and elections of members necessarily, but it lies at the foundation and might properly be considered by itself. I understand, however, that my friend from Connecticut and other gentlemen contend that we ought not to leave that question of the condition of the States to the joint action of both Houses.

Mr. DIXON. I do. The Constitution makes each House, separately, the exclusive judge of the entire question.

Mr. FESSENDEN. He says he does. I was contending that it was a very proper question to be so left. I understand the President, so far as his ideas may be gathered from what he has said, to be contending for the same thing as the Senator from Connecticut. I say it is no usurpation on our part, but a very proper and reasonable and necessary thing under the circumstances and condition of the country.

Mr. DIXON. I understand the Senator to say that because the President took this ground, that the Congress of the United States should not inquire into the question of the elections, qualifications, and returns of members here, but that it should go to each House, as the Constitution directs, therefore he could not vote to sustain the veto.

Mr. FESSENDEN. I infer it from the fact that he lays it down precisely, as I understand him, in this way: that that matter is settled; he says he has looked into this subject; he is satisfied about it, and he insists that these men should be admitted.

Mr. DIXON. I will say in reply to the Senator that the President says no such thing.

Mr. FESSENDEN. Read his veto message.

Mr. DIXON. I take all his sayings, I take his annual message to Congress, his last message together, and I find he says there that these men have come to the doors of Congress

in fact, and that now it is for Congress, each House for itself, to decide as to their admission. He goes on to say, and he has a right to go on to say, for the Constitution provides that he shall give us information in regard to the state of the Union, that he thinks there ought to be representation on the part of loyal men. But the Senator and those who think with him (and if I am mistaken I shall be very glad to be set right by the Senator) state that those of us who claim that the Senate shall judge alone are in some way letting down the bars, if I may use a common expression, that we are throwing wide open the doors of the Senate, that we wish to admit or may admit traitors into this body, because both Houses of Congress do not act on the admission of Senators.

Mr. FESSENDEN. I call the attention of the Senator to the language of the President in the veto message. He says :

"I would not interfere with the unquestionable right of Congress to judge, each House for itself, of the 'elections, returns, and qualifications of its own members,' but that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution."

The plain reference from which, I take it, is that that is exactly what Congress is doing.

"At present all the people of eleven States are excluded, those who were most faithful during the war not less than others. The State of Tennessee, for instance, whose authorities engaged in the rebellion, was restored to all her constitutional relations to the Union by the patriotism and energy of her injured and betrayed people. Before the war was brought to a termination they had placed themselves in relations with the General Government, had established a State government of their own, and as they were not included in the emancipation proclamation, they, by their own act, had amended their constitution so as to abolish slavery within the limits of their State. I know no reason why the State of Tennessee, for example, should not fully enjoy 'all her constitutional relations to the United States.'"

There are some other things in the message plainly intimating that Congress is attempting to keep these States out.

Mr. DIXON. Does the Senator deny the correctness of that portion of the message?

Mr. FESSENDEN. No; but I deny the correctness of the inference from it, and what I supposed to have been in his mind, and what I think everybody else must see was in his mind, and that is, that these States are in a condition to be admitted.

Mr. DIXON. That is what I supposed the Senator said. The Senator says he does not deny the correctness of that statement in the message, but he denies the inference that he draws from it. The Senator can draw inferences to a greater extent than most men. It is enough for me if what the President says is correct. I am not responsible, nor is the President responsible, for the inferences that may be drawn from it. What does he say?

"I would not interfere with the unquestionable right of Congress to judge, each House for itself, of the elections, returns, and qualifications of its own members.' But that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution."

The Senator admits the correctness of the proposition.

Mr. TRUMBULL. Will the Senator allow me to ask him a question?

Mr. DIXON. Certainly.

Mr. TRUMBULL. Suppose that in a time of peace the Legislature of Tennessee is disloyal and swears allegiance to the Emperor Maximilian, does the Senator deny the authority of Congress to inquire into the character of that Legislature?

Mr. DIXON. I do, and there I come directly to the point. It is for the Senate, not for Congress, to make the inquiry if a Senator from Tennessee in the supposed case presents himself, and if the inquiry relates solely to the admission of a Senator.

Mr. TRUMBULL. He denies the authority of Congress to decide whether the constituency is traitorous or loyal!

Mr. DIXON. That is another point,

Mr. TRUMBULL. That is the very one I put. If all the members of the Legislature of Tennessee swear allegiance to the Emperor Maximilian and send a Senator here, I want to know of the Senator from Connecticut if Congress has a right to inquire into the character of that Legislature?

Mr. DIXON. I will answer that by asking another question.

Mr. TRUMBULL. As I do not wish to interrupt the Senator again I desire to say all I have got to say, and then he can answer all my questions together.

Mr. DIXON. I hope the Senator will not put two questions at once. I desire to ask the Senator this question: suppose that was the case, that the Emperor Maximilian had entire control of the State of Tennessee, and a person claiming a right so to do should come here and offer himself as a member of the Senate, and should be received here; that, in judging of the qualifications, returns, and elections of the member, the Senate decided that he was a Senator, has Congress anything to do with the question? I ask him if the House of Representatives can interfere? Is there any appeal to Congress, or any other tribunal? I ask him if that man is not a Senator in spite of the world? Let the Senator answer that question.

Mr. TRUMBULL. If the Senator means to ask me if the Senate has not the physical power to admit anybody, elected or not, I admit they have the same right to do it that twelve jurymen would have, against the sworn and uncontradicted testimony of a hundred witnesses, to bring in a verdict directly against the evidence and perjure themselves. I suppose we have the physical power to commit perjury here when we have sworn to support the Constitution. We might admit a man here from Pennsylvania avenue, elected by nobody, as a member of this Senate; but we would commit perjury in doing it, and have no right to do it.

Mr. DIXON. I am not on the question of right. I am not on the question of moral right or wrong. I am on the question of power. The Senator says physical power. So it is in one sense. We would tell our Sergeant-at-Arms to turn out a rejected member, and there it would be physical power. If we admitted him the only physical power exerted would be the power required of him to walk into the Chamber. I say it is a question of jurisdiction wholly, and it is wholly in the Senate of the United States. Congress may provide by law that a certain State shall not be represented here, and if the Senate of the United States see fit to admit a member from that State as a Senator, he is a Senator, and why? Because the Constitution says that each House shall be the judge of the elections, qualifications, and returns of its own members. The Senator must know instances of this. The Senator recollects very well the case of Mr. Bright. Shortly after I came into the Senate I heard him argue that case. Mr. Bright, as the Senator claimed, was not elected here. He was picked up in the streets of Washington, as it might be said—the very case put by the Senator. He was never elected to this body; it was scarcely claimed that he was elected; but by the vote of the Senate the slave power admitted him on this floor. What could we do? The Senator made an eloquent protest against it, and it was the first time I heard him speak in this body, but could he eject Mr. Bright? And after Mr. Bright was admitted, did he ever attempt to eject him? Did we not keep him here until we were compelled to expel him as a traitor? The Senator says that Congress must act in order to exclude a man, and he says that if the Emperor Maximilian were to take possession of Tennessee, and Congress should act on the subject, its action would have some force or weight or vitality, or there would be some necessity for Congress being called upon so to do. I say that not only would there be no necessity, but no possibility of Congress being called upon to act. It is a question upon which Congress has no jurisdiction, and it is a question of jurisdiction. What would be the form of a law passed by the House of Representatives and the Senate, and signed by the President, providing that a certain State should not be represented in this body for any reason, I care not what? Suppose Congress enacts by this resolution, if you call it an enacting resolution, that no member shall be admitted from any of the southern States, it would be futile, nugatory; the Senate could admit Senators from those States notwithstanding; that is my position.

Mr. TRUMBULL. The point is this: the Senator insists that the Senate of the United States has the right to commit perjury; that a Senator who is sworn to support the Constitution has a right to vote to admit a man here from Pennsylvania avenue—

Mr. DIXON. I think the Senator ought not to take that ground. I claim no such thing. I say the Senate of the United States has the power to commit perjury, but does that power deprive the Senate of jurisdiction. So has the Supreme Court. So has Congress. But is that saying they have a right to commit perjury?

Mr. TRUMBULL. Very well; he is arguing here, then, in favor of the power to commit perjury. Now, if a person had a mind to commit perjury he could vote that a person on Pennsylvania avenue, without an election or anything else, should have a seat here; but I do not suppose that we are to argue questions in the Senate of the United States upon any such principle. The question here is not as to the election, qualification, and return of a person representing himself as a Senator, but it goes behind that. It is for Congress to determine whether there is a State that has a right to send Senators here. It is for each House to determine when there is a constituency having a right to elect, whether they have sent persons qualified, and whether they have elected them properly. Those are two entirely distinct and separate questions. When

the Senator reads from the message of the President of the United States that he has brought men to the doors of Congress, I deny *in toto* his right to bring members to Congress. What right has the President to bring members to Congress?

Mr. McDOUGALL. Mr. President—

The PRESIDENT *pro tempore*. Does the Senator from Connecticut yield the floor to the Senator from California?

Mr. DIXON. I hope the Senator will excuse me for a single moment. I must reply to these interruptions as I go along, and I shall hear him with pleasure presently.

The Senator from Illinois says that I take the ground that this body may commit perjury. I ask him if Congress may not commit perjury? Does he escape it by going to Congress? Cannot Congress just as well commit perjury with regard to the question whether Tennessee is entitled to representation as the Senate? It is wholly immaterial what power the body has to decide wrong. I agree that everybody has a power to decide wrong. Congress is as liable as the Senate to decide wrong. It is a question of jurisdiction, which body shall decide, not which shall decide right. I think this body more likely to decide right than Congress. That is my judgment, but I may be mistaken. I think Congress as likely to commit perjury as the Senate. The Senator is shocked at the idea that there is a possibility of perjury being committed and a bloody handed traitor being admitted into this body. I should have some fears that Congress might do that as well as this body, especially if the Senate goes on in its present course and we are obliged to refer this matter to the next Congress. I have great fears that the next Congress will be more likely to commit perjury on this subject than this Congress.

Mr. FESSENDEN. Will the Senator allow me to correct an error which I fell into a short time ago?

Mr. DIXON. Certainly.

Mr. FESSENDEN. I read a passage from the veto message, and my friend asked me if I acknowledged the correctness of it, and I told him that I did. What I meant to agree to was, and what I supposed him to refer to was, the statement of principle:

“At present all the people of eleven States are excluded: those who were most faithful during the war not less than others.

Then he goes on to say:

“The State of Tennessee, for instance, whose authorities engaged in rebellion, was restored to all her constitutional relations to the Union by the patriotism and energy of her injured and betrayed people.

I merely meant to object to the manner in which it was stated that Congress had no right to exclude the constitutional representation of a State in time of peace.

Mr. DIXON. “But that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution.” The Senator does not deny the correctness of that.

Mr. FESSENDEN. In regard to that, if there were no peculiar circumstances, ordinarily you could not do it of course.

Mr. DIXON. There has been a time when my State and the State of the Senator from Maine, and the State of the Senator from Massachusetts were regarded as under peculiar circumstances in this body. Suppose at that time Congress had seen fit by law to shut out the State of Massachusetts from representation, would anybody pretend that Congress had power to do it? But there was a power in the Senate of the United States by which that Senator could have been excluded, and so could the Senator from Massachusetts. There could have been no appeal from that judgment. There must be an end somewhere. Now, let us see what Judge Story says on this point. I trust now the question between us is understood. I claim that this is a question of jurisdiction, who shall judge of everything relating to the qualifications of a Senator in this body, both as to his having a constituency and he himself being the representative of that constituency. Judge Story says in commenting on the clause in the Constitution which provides that each House shall be the judge of the qualifications, &c., of its own members:

“It is obvious that a power must be lodged somewhere to judge of the elections, returns, and qualifications of the members of each House composing the Legislature; for otherwise there could be no certainty as to who were legitimately chosen members, and any intruder or usurper might claim a seat and thus trample upon the rights and privileges and liberties of the people! Indeed, elections would become, under such circumstances, a mere mockery; and legislation the exercise of sovereignty by any self-constituted body.”—Sec. 833, *Story's Commentaries*.

Does he say the protection is Congress? No; but he says:

"The only possible question on such a subject is, as to the body in which such a power shall be lodged."

That is, the power to judge whether a man is a usurper, an intruder, or is legitimately chosen by a proper constituency.

"If lodged in any other than the legislative body itself, its independence, its purity, and even its existence and action may be destroyed or put into imminent danger. No other body but itself can have the same motives to preserve and perpetuate these attributes; no other body can be so perpetually watchful to guard its own rights and privileges from infringement, to purify and vindicate its own character, and to preserve the rights and sustain the free choice of its constituents. Accordingly the power has always been lodged in the legislative body by the uniform practice of England and America."

Congress is not the legislative body. Congress is made up of two legislative bodies, and in some instances of three. The law-making power is vested in three bodies in this country, the Senate, the House of Representatives, and the President in cases where his approval is necessary to the passage of a bill. The legislative bodies which make up Congress are the House of Representatives and the Senate, and each body for itself is to judge of everything with regard to this subject.

But, sir, I have occupied much more time upon this point than I had intended. I trust I have shown, I have at least to my own satisfaction, that the President does not take the ground that this question may not be fully investigated. He does state that it should be done by each body for itself. That is his opinion. He has expressed it in a message in which he was giving information of the state of the Union, as he is bound to do. He says that we have no right to exclude representation totally under that clause of the Constitution. Does anybody claim that we have that right? We have the physical power perhaps, but we have no right to do it. We have no right to say that the State of Illinois shall not be represented in time of peace; and if Congress have the right to say that the State of Tennessee shall not be represented in time of peace, the act is utterly futile and nugatory, because in spite of Congress the Senate may admit a member from Tennessee, and to-day if Mr. Fowler, of Tennessee, were admitted a member of this body, in spite of all your laws he would be a member of the body and you could not exclude him except by expulsion.

Mr. KIRKWOOD. Will the Senator allow me to ask him a question?

Mr. DIXON. Certainly.

Mr. KIRKWOOD. I want to understand the Senator if I possibly can. Do I understand him to say that the President takes the ground that the State of Iowa and the State of South Carolina stand to-day in the same identical position before Congress, and that each House has the right to decide just in the one case what it has in the other, no more no less.

Mr. DIXON. I do not know what the President's opinion on that subject is, but I will tell the Senator what is mine; that is all that I can answer for. I think that the State of South Carolina can be represented to-day in this body if the fiat of the Senate of the United States goes forth to that effect. Let the Senate so say, and what will the Senator do? Suppose a Senator offers himself here from South Carolina and is admitted on the floor of this body, I think the Senator will find himself powerless to exclude him except by expulsion.

Mr. KIRKWOOD. I understand the Senator to say, then, that in his opinion the two States I have named do stand before Congress in the same position, with the same rights?

Mr. DIXON. Not by any means. The Senator first asked me if each House had the same right to decide in both cases. He now asks me if the two States stand before Congress in the same position. That is a question for me and other Senators to decide. When they come here the Senate is to consider whether Iowa and South Carolina stand in the same position. We are to judge of that question. My private opinion is that South Carolina is vastly different as to her rights of representation in this body from Iowa, but I say that it is a question wholly for the Senate to decide, and that in point of law, whatever the Senate decides upon it is law in spite of any act of Congress to the contrary. As to the power of the Senate to admit their members, Iowa and South Carolina stand on the same ground. As to the proper decision to be reached they stand on very different grounds.

Mr. HOWARD. Suppose the House of Representatives should decide the other way, and refuse to admit Representatives from South Carolina while the Senate admitted its

Senators here, what would be the condition then, would the State be in the Union, or where would it be? Would it be *in nubibus*?

Mr. DIXON. That is possible; we may admit Senators while the House refuses to admit Representatives.

Mr. HOWARD. The Senator will pardon me. What would be the legal and constitutional condition of South Carolina in that event?

Mr. DIXON. I think the constitutional and legal condition of South Carolina would in that case be precisely what it is now. I do not think it would alter it in the slightest degree if this body should admit Senators and the House of Representatives should refuse to admit Representatives. I do not know that that would affect the character of South Carolina as a legal question. Take the Senator's own State—

Mr. HOWARD. Let me put my own question, if the Senator will pardon me. It involves this point, as the Senator will see, whether the war, as an existing state of things, has had any effect to change the political *status* and relations of the people of South Carolina as a political community, which we commonly call a State, or has it had no such effect?

Mr. DIXON. I would not say that it had no effect. I never have taken that ground.

Mr. HOWARD. But what effect has it had, if it had any?

Mr. DIXON. There may be a difference of opinion on that point. I think, notwithstanding, that South Carolina is still a State in the Union. That is my doctrine and always has been. I think that Tennessee is a State in the Union. I think that there never was a moment when they were not States, and when, if every citizen of those States had become repentant, and they had come here and been received, and you had been satisfied that they were entirely repentant, it would not have been perfectly competent, proper to say to those States, "You shall have your representation without a readmission." Now, if the Senator suggests that there is no difference between Iowa and South Carolina, or Michigan and South Carolina, I do not take that ground; but I say that South Carolina does not need readmission into this Union. Probably that is about the difference between us. I consider them somewhat in the condition of a man and wife who have separated for a period of years and who then come together; they need not remarry and they do not. If that may be made an illustration, I do not think there is a readmission of the rebel States necessary; I do not think remarriage is necessary. I think they are still in the eye of the law and the Constitution States; and provided the public safety in the opinion of the Senate will permit it, these members will properly be readmitted to seats in this body. But it does not follow from this that the strictest examination should not be made into all the circumstances of their condition, an examination which the Senate is fully competent to make. This is the constitutional tribunal where it should be made.

Mr. FESSENDEN. Can we not inquire what they have been doing in the mean time?

Mr. DIXON. Individuals in the rebel States have been fighting as there may have been fighting in the case I put. Now, sir, I never could see any great difficulty in this subject, but for the question of slavery and the question of negro suffrage. If these States were now inhabited by citizens of Connecticut, and citizens of Maine, and citizens of West Virginia, who would raise a question that they needed readmission? You would admit their representatives, in my judgment, at once. I think the Senator from Massachusetts would to-day receive them if they would allow negro suffrage. Universal suffrage, I think, would satisfy him; and if that were allowed, he would not demand their readmission as States before allowing them representation.

But, sir, let us come back to the point. The Senator from Maine says that those of us who take this ground are in some way remiss; that we propose in some manner to diminish and lessen the force of safeguards in this body. It is not for us to say where the jurisdiction shall be. It is established by the Constitution. If the Senate is made the body to decide, how can we help it? The Senator says that he desires to preserve the independence of the Senate. He wishes to keep it in the power of the Senate; and what does he do? I beg leave to call attention to what the remedy of the Senator from Maine is. How is it that he proposes to preserve the independence of the Senate upon this question? He has here a joint resolution, or rather a concurrent resolution, providing that no member shall be admitted into either body without an act of Congress. The object of this is to preserve the independence of the Senate! How does he do it? By providing that we shall not admit a member into this body until the law-making power—and, in a certain contingency, until the law-making power by a two-thirds vote—shall consent to it. Does that preserve the independence of the Senate? He proposes to place this possibly in the power of the President of the United States by a veto. It is not very likely that the President of the United States would veto an act of Congress allowing representation here or in the other House; but I do not know

that he might not veto a bill readmitting those States. Perhaps he might feel that it was against settled principles. I do not know how that is ; but suppose he does. The Senator says the independence of the Senate is to be preserved, and he places it in the power of a single man by a veto, at any time and at all times, to exclude a member from this body ! I cannot see how the independence of the Senate is to be preserved in that way. Sir, what is this resolution ?

Mr. FESSENDEN. The Senator evidently does not understand the resolution. He has not read it carefully.

Mr. DIXON. I have examined it critically.

Mr. FESSENDEN. It is "until Congress shall have declared" the State entitled to representation. That does not necessarily involve a law.

Mr. DIXON. Is not a declaratory law a law ? What is Congress but the law-making power ?

Mr. FESSENDEN. It may "declare" it by a concurrent resolution, as this is.

Mr. DIXON. If the Senator insists on a several resolution, why not have several action in other respects ? If he will agree not only to several instead of joint resolutions but several instead of joint acts, and insert in his resolution "each House for itself," making it several throughout, I will agree to the resolution. My objection to it is that it is joint.

Mr. FESSENDEN. It does not go to the President necessarily.

Mr. DIXON. I agree this resolution does not go to him ; but an act of Congress goes to the President.

Mr. FESSENDEN. It does not say "an act of Congress."

Mr. DIXON. What does it say ?

"That in order to close agitation upon a question which seems likely to disturb the action of the Government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no Senator or Representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation."

Mr. FESSENDEN. It may so declare by a resolution like the one before us.

Mr. DIXON. That is not an act of Congress. If it is an act of Congress you must have the approval of the President. Your evasion of the President's action in this case is because it is not an act of Congress ; it is the act of each House by itself. Can you avoid the right of the President of the United States to concur or non-concur in every act of Congress ?

Mr. FESSENDEN. Is not a concurrent resolution, if we pass it, the act of Congress ? I do not say "an act of Congress."

Mr. DIXON. It is not an act of Congress.

Mr. FESSENDEN. Is it not the act of Congress ?

Mr. DIXON. No ; it is not the act of Congress—it is the separate act of each House—otherwise it must go to the President.

The Senator says that this resolution is not an act of Congress. I do not say that it is. The resolution itself, I think, is so shaped as possibly not to be the action of Congress. Why ? Because it is several ; it is not joint. I think there is a very great doubt whether the Senator has evaded the Constitution by this, although I agree he has come very near it, and possibly has done it. But I am not now talking of this resolution, whether this is a law of Congress or not ; but I am speaking of the action of Congress to which it refers, which it anticipates, which it contemplates. It provides that no member shall be admitted into either branch of Congress from such State "until Congress shall have declared the State entitled to representation." Will the Senator deny that that requires an act of Congress ?

How can Congress declare a thing ? Can Congress declare that a certain State is not entitled to representation except in due form of legislation ? Nobody will contend for that. When the Constitution says that Congress shall do so and so, it means that the law-making power may do it ; and you may here substitute "the law-making power" for "Congress" without altering the meaning in the slightest degree, "shall be admitted into either branch of Congress from any of said States until the law-making power shall have declared such State entitled to such representation."

I desire to ask the Senator if that is not the meaning. This resolution, I do not claim, is an act of Congress, nor do I consider it the action of Congress, but of each House ; but that is immaterial. I say this means precisely as if it was written, "shall be admitted into either branch of Congress from any of said States until the law-making power shall have declared such State entitled to such representation."

What is the law-making power? It is the two Houses of Congress and the President. That is the position we are placed in by this resolution; if it amounts to anything; I agree it does not, but if it is of binding force you never can admit a member into this body until the President of the United States shall sign the bill, unless you can do it by a two-thirds vote over his veto. That is the mode in which the Senate desires to preserve the independence of the Senate. I confess, again, I cannot see it in that light.

But what is this resolution? I have a few comments to make on it. It is very singular in its inception and in its character. It was introduced in the other House with the declaration that it was in consequence of the veto message, and a great leader there stated that he should have been willing to admit members from Tennessee, if I am not very much mistaken, but for that veto message. And what does the veto message say? That the President of the United States desires such admission. That leader was willing to admit representatives from Tennessee if the President of the United States had not expressed his desire for it. That is the whole of it. I take the House chairman of our joint committee at his word; I think that was the reason; and I must say here upon my responsibility that I do not think it a good reason. It is not a good reason for refusing representation to a State, that the President of the United States desires it, even if he expresses his desire in a manner which some may consider somewhat objectionable.

The Constitution says that he shall give us information of the State of the Union. It is his duty to do it. He has done it. He has told us considering the state of the Union on that subject, that there is a state not represented which ought to be; he says so; and therefore a great and distinguished leader says he will change his mind; that having come to the conclusion that the members from Tennessee ought to be admitted, he will refuse them admission for this reason.

The resolution begins with saying that it is "in order to close agitation." This is a subject which agitates and will continue to agitate this whole country. The waves of popular feeling are running high and will be more tumultuous; agitation never will cease till more or less of the representation of these States is admitted. But the Senator says to close agitation on this subject we should adopt this resolution.

The people are agitated; they desire to admit the Tennessee members. We are to stop their agitation by telling them we will not do it. Will that close agitation? I might refer to the experience of some members of this body. The Senator from Massachusetts has been in his day somewhat of an agitator. My breath is not agitation, but there have been times when he has gloried in being called an agitator, and there have been attempts to close his agitation, and how? By law. This is not even a law. There was the Kansas-Nebraska bill which was intended to close the Senator's agitation, and the agitation of the Senator from Illinois, and the agitation of the Senator from Maine, by declaring that the people of a Territory should decide for themselves, and that Congress had no power virtually to act on the question of slavery. Did that close agitation? Did the repeal of the Missouri compromise close agitation? There was another attempt. A decision was made by the Supreme Court of the United States with the view of closing agitation upon the question of slavery. That Court decided that Congress had no power to pass an act upon the subject of slavery either in the States or in the Territories, and they fondly believed that would close agitation. Were men ever more deceived? Did it close agitation? If any act could accomplish the impossibility that would do it. It was supposed by some deluded men that the Supreme Court of the United States having taken that ground, the people of this country would stop their agitation and would cease to talk and legislate on the subject of slavery by their representatives in Congress. But, sir, that agitation has gone on until it has culminated in war, and finally slavery has been abolished on the battle-field.

I do not think the Senator is supported by experience in his desire to close agitation in this way. He knows that the vast business interests of this country are eagerly intent on this question. He knows that the people of this country are mutually attracted, the North and the South, and they must sooner or later act together. He knows perfectly well that whatever Congress may do, this question will not cease to be agitated. Adjourn, if you see fit, without settling this question; leave it as it is; admit no member from Tennessee; and when you go through the States next fall which hold their elections for Congress, see whether agitation has ceased. Sir, a word of caution may not be unfit on that subject.

In my judgment it is the solemn duty of this body to-day, to-morrow, at the first possible time to take up the credentials of Mr. Fowler—I name him; he is the applicant here as Senator from Tennessee—and to act upon that question, and in acting upon it, to consider the entire question whether Tennessee is a State in the Union, whether she has a Legislature, whether her people are loyal, whether the public safety will permit,

her admission, whether the man himself is fit to be admitted. On that question there is no doubt. Nobody questions that Mr. Fowler is as loyal a man as the Senator from Ohio himself. Upon that question there is no dispute. It is our duty to act upon the question of his admission. We cannot evade it, we cannot throw it upon Congress. Congress has no jurisdiction of the subject, in my judgment. It is the duty of the Senate of the United States, an independent body, of being a member of which I am proud, as the Senator from Maine declares himself to be, but never with my consent will I relinquish one of the prerogatives of this body. It is for us to say and it is our duty instantly, upon the moment, as a question of privilege, the privilege of a State, the privilege of a member, the privilege of the whole country, to consider the question of the representation of Tennessee, and of other States as their cases are presented. Every day that you omit it, in my humble judgment, Senators you omit to do your duty. I shall vote for the admission of loyal members at every opportunity offered. If others do not the responsibility is theirs.

But, sir, what is the policy proposed instead of this? Instead of acting on this question, instead of the Senate of the United States taking up this question of the right of a State to representation, and of the right of the member chosen to be a member of the Senate, what is proposed? The Senator from Ohio [Mr. WADE] has asked me to state the policy of the President. It is more difficult to state the policy of those who oppose the President.

Mr. WADE. I have been listening to your whole speech, and I was going to ask the question over again, for I want to know what that policy is. It was very pertinent to some observations you made first.

Mr. DIXON. The Senator will not object to my stating it in my own time and place when I reach it, as I assured him I would. I wish first to consider what the Senator's policy is. That is a far more difficult question to answer. I have written statements of the President's policy. Vague and indefinite and fleeting like a myth, or like a ghost on the mountain in Ossian is the policy of the Senator himself and of his friends, excepting only my friend from Massachusetts. His policy is understood and distinctly declared.

Now, sir, permit me to consider for a moment the policy of those men who say Congress is to settle this question. The Senator from Illinois yesterday said there was no man within the circle of his knowledge who claimed that there should be an indefinite extension in point of time of the admission of representatives from these States. Is that so? I think not. I have here an index of the policy of those who differ from me and possibly from the President, a resolution offered by the Senator from Wisconsin, [Mr. HOWE.] It has never been printed it seems, and I ask the Clerk to read it. That is one index to the policy.

The Secretary read the joint resolution introduced by Mr. HOWE, as follows:

"Whereas the people of Virginia, of North Carolina, of South Carolina, of Georgia, of Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, and Tennessee, have heretofore declared their independence of the Government of the United States, have usurped authority denied to every State by the supreme law of the land, have assumed duties imposed upon every State by the same law, and have waged war against the United States, whereby the political functions formerly granted to those people have been suspended; and whereas military tribunals are not suited to the exercise of civil authority: Therefore,
 "Be it Resolved, &c., That local governments ought to be provisionally organized forthwith for the people in each of the districts named in the preamble hereto."

Mr. DIXON. That is the policy proposed by the Senator from Wisconsin. Whether the Senator from Ohio agrees with it I do not know. I know that there are Senators here who agree with that policy, and who propose governments to be established for these States as foreign nations, as Territories, as districts, so-called mere districts. That is one policy. Is not that an indefinite extension? The Senator from Illinois says he knows no man that proposed any such thing.

Mr. TRUMBULL. Is that indefinite? Does it not tell when?

Mr. DIXON. In point of time it is very indefinite. It is definite enough in its character, but the time when those States can be represented is the question. Here is another indication. I find certain resolutions offered and adopted by a public meeting at Gettysburg on the 3d day of October, 1865, by Hon. THADDEUS STEVENS, a man of great distinction and ability, a leader I may say in the other branch of Congress. His talents entitle him to the post. These are the resolutions which he offered:

"Resolved, That in our judgment the best way to effect that [reconstruction] is to treat the so-called 'confederate States' as subject to all the liabilities which they claimed for themselves as a belligerent independent *de facto* alien to the Constitution; and entitled to claim no protection under it.

"*Resolved*, That having conquered this hostile belligerent, they shall be held as a conquered enemy, and the laws which are to govern them shall be referred to Congress, to which, as our State convention has well resolved, it properly belongs.

"*Resolved*, That, until Congress shall have acted, none of the 'confederate States' is entitled to be represented in Congress, but shall be held and treated as Territories until again admitted into the Union.

"*Resolved*, That we demand, on behalf of the people of Pennsylvania, that Congress shall declare as forfeited and vested in the Government all the real estate of such of the enemy as were rebels, whose estate at the beginning of the war was worth ten thousand dollars, or more, as our State convention resolved, though we would have preferred a lower sum; and who were the owners of more than two hundred acres of arable land.

"*Resolved*, That we desire that the forfeited land shall be divided into convenient farms; and after assigning a just portion to the freedmen, the balance should be sold, at convenient periods, to the highest bidder; and the proceeds to be applied as follows:

"1. Invest \$300,000,000 in six per cent. Government bonds, and add the interest semi-annually to the pensions of those who have become pensioners by the casualties of this infamous war.

"2. Appropriate \$200,000,000 to pay the damages done by the rebels to loyal citizens whether North or South.

"3. Pay the balance into the United States Treasury, toward the payment of the national debt."

Five hundred million dollars to be received by confiscation and sale of the property of the whole South, and the balance of the price to go to pay the national debt. That is the proposition of the honorable chairman of this joint committee. This shocked the Senator from Massachusetts, and I may say that in the way of radicalism anything that shocks him must be sufficiently shocking. [Laughter.] He did not favor it. He was shocked by this monstrous proposition. What is it? The confiscation of the property of the whole people, the actual turning out to starvation of an entire population, and until that is done no representation shall be admitted into Congress. That is one of the things which Congress is to do. That is one mode of reconstruction! And still the Senator from Illinois says, in that convincing manner of his, that there is no human being, to his knowledge, who proposes any indefinite exclusion in point of time. Will it not take some little time to accomplish this, I ask that Senator? Is not the honorable member who introduced these resolutions at Gettysburg a man to whom that Senator looks as one who has the right to give opinions? I do not say that he always follows his lead, but he said that he knew no man who proposed an indefinite exclusion.

Sir, that gentleman is the chairman on the part of the House of this joint committee. To him you have committed this question of reconstruction. Our friend and colleague from Maine is powerless in that committee; he has, I think, six members on the part of the Senate. The other chairman of the committee has nine. What can our distinguished friend do in that body? It is a question of force, a question of physical power, a question of numbers, it is not a question of intellect. If it were a question of intellect, I think the two chairmen would be pretty fairly pitted against each other. I would say of the contest between these two men, the honorable member from Pennsylvania and the honorable Senator from Maine, as the poet said of the battle of Talavera:

"A glorious sight to see
For him who had no friend or brother there." [Laughter.]

Now, sir, I have spoken of the policy of those who differ from me, and, as I suppose, from the President, on this subject. I might allude to other distinguished men. I have spoken of the gentleman from Pennsylvania; I have spoken of the Senator from Wisconsin. I will allude now to another gentleman of high position in the House of Representatives. I have read his speech in the Globe. I suppose in that official paper I may comment on it with propriety—a speech of great force, perhaps unsurpassed by any speech made on this subject. I allude to a speech published in the Globe as the speech of Mr. SHELLBARGER, of Ohio. What does he say? He has a policy of reconstruction; and he says:

"Mr. Chairman, let this noble utterance—'irreversible guarantees for the rights of American citizens of every race and condition—be written with pen of iron and point of diamond in your Constitution. Let it thus be made 'irreversible' indeed, by the action of the State, in the only way it can be made irreversible; and then to establish this and every other guarantee of the Constitution upon the only sure foun-

"dation of a free republic—the equality of the people and of the States—make, by the same organic law, every elector in the Union absolutely equal in his right of representation in that renovated Union, and I am content.

"Let the revolted States base their republican State governments upon a general and sincere loyalty of the people, and come to us under the guarantees of this renewed Union, and we hail their coming and the hour that brings them.

"If you ask again, 'Suppose such general loyalty should never reappear, shall they be dependencies forever?'

"Sir, convince me that the case is supposable, then with deepest sorrow I answer—'Forever!'

Is not this indefinite in point of time? No, he limits it to forever. Unless he can get these guarantees, this Union must remain dissevered forever. Now, sir, is it surprising that some gentlemen on this floor think it is time for them to assert their individual sentiments against these opinions of men of eminent talent and ability in both Houses of Congress?

I come to another example, and one of still more power, probably, in the estimation of the Senate. I come to the opinions of the honorable Senator from Massachusetts, [Mr. SUMNER.] He, presiding at the call of the people of Massachusetts at a great State convention held in that noble State in the month of September last, laid down his ideas of the true policy of reconstruction. So radical is his plan of reconstruction that he cannot go for the resolution reported by the joint committee of fifteen for the amendment of the Constitution. That does not go deep enough for him. His is a subsoil plow. He thinks it may require thirty years to accomplish his purpose. Am I mistaken?

Mr. SUMNER. Read the passage.

Mr. DIXON. Here is the speech, "The national security and the national faith," a splendid and magnificent effort, like all that comes from him. Before the assembled Republicans of the State of Massachusetts, a body over which he presided, of which I may say that probably it has never been surpassed by any similar body on the face of the globe for intelligence and for character, the Senator himself giving the people of Massachusetts solemnly his opinions and laying down his manifesto, announced his project which was ratified by the convention. He says:

"There must be no precipitation. Time is the gentlest but most powerful revolutionist. Time is the surest reformer. Time is the peace-maker. Time is necessary to growth, and it is an element of change. For thirty years and more this wickedness was maturing. Who can say that the same time will not be needed now to mature the conditions of permanent peace?"

The Senator does not say it will take thirty years, but he says no man can say that it will not. I agree with him, no man can say it will not.

Mr. SUMNER. Finish the passage.

Mr. DIXON. Yes, it is worth reading:

"Who can say that a generation must not elapse before the rebel communities have been so far changed as to become safe associates in a common government? Plainly, this cannot be done at once. Wellington exclaimed at Waterloo. 'Would that night or Blucher had come.' Time alone was a substitute for a powerful ally. It was more thorough time than battle that La Vendée was changed into loyalty. Time, therefore, we must have. Through time all other guarantees may be obtained; but time itself is a guarantee."

Is that indefinite in point of time? I do not think all this can be accomplished short of a generation. I desire while that process is going on, while that generation is growing up, that the people of this country shall be reunited, that they shall be represented by loyal men from loyal States and districts in this body and in the other House, while the Senator is finishing the remainder of his useful career on earth in bringing that great work to accomplishment. Its completion will bring him to more than the allotted term of human life.

Is not this indefinite? But, sir, it is said—the Senator from Ohio will excuse me for not yet coming to the policy of the President—that the President's recent speech is an obstacle in the way of the President's policy. The Senator from Ohio [Mr. SUMNER] saw fit to bring before this body a speech recently made by the President of the United States or I should not myself have alluded to it. I have but a few words to say upon it.

There are certain matters of public policy which when avowed by the President interest me somewhat deeply. Peculiar modes of expression do not very much interest

me, I confess. Whether he states his views in a speech from the White House or in a message is to me somewhat immaterial. What he says is material upon great questions of public policy. We know that when General Washington was President of the United States he introduced, as was complained in those days, a somewhat regal and imperial mode of conducting the public business. It was as difficult to get access to him as to a monarch. When Mr. Lincoln came into the executive chair he was as accessible as he was in his office at Springfield. General Washington had one mode of transacting public business; Mr. Lincoln had another. I am not here to condemn or to justify either of those modes. I may have my preferences. Possibly if I could express my wish, it would be that the Washingtonian mode was in some respects revived and renewed. But does anybody suppose that great questions of public policy in the minds of the people are to be affected for a single instant by a question of taste? Does that affect the question of policy? It is not for us to inquire what is the President's mode of life or action, provided it is pure and virtuous. That we have a right to ask, and that is all we have a right to ask. Great questions of policy we have a right to consider, and the people of this whole country are looking with eager eyes upon the policy of the President, not upon his modes of expressing this policy.

To suppose that at this time, when the ocean of public opinion is heaving in multitudinous waves, the people of this country are to avert their gaze for a single moment from the question of policy in order that they may consider the question whether a particular mode of expression or action is in good taste or not, is to suppose what I think does not exist. What the people ask is, what is the policy of the administration? And I am now prepared to tell the Senator from Ohio what that policy is.

Mr. WADE. Let me ask the Senator whether he derives the evidence of that policy from the speech of the President made on the 22d of February. If so, I suppose he knew nothing about it before. Let us have it, then, from that source.

Mr. DIXON. I shall take authentic and written declarations of his opinion. When this Congress met there was, I understand, no difference of opinion between the President and Congress. Was ever a message submitted to a more approving Congress? Was there ever a President's message read by a more admiring public? I need not refer to what followed in either House of Congress. Nearly three months have elapsed. It is said there is a difference of opinion at this time between the President and certain men in this body.

What is the difference of opinion existing between the President of the United States and those who are hostile to his reconstruction policy in the two Houses of Congress? I certainly disclaim, of course, any right to state what are his opinions, except as they are given to us in authentic public documents. From these alone I obtain his views.

That these are misrepresented, intentionally or otherwise, should not perhaps surprise those who consider how seldom a candid statement of the true question at issue is made by the advocates of conflicting doctrines and opinions. It would seem impossible, in view of the frank and explicit utterances which the President has often made of his opinions, to create in the public mind a misapprehension of his views. Yet this, to a certain extent, has been done. He is supposed by many to urge the admission of disloyal men from the rebel States to the two Houses of Congress. He is charged with a purpose to bring into their former places in this body bloody-handed rebels. He is said to wish to "throw wide open" the doors of Congress and fill those seats with traitors fresh from the battle-fields of the rebellion. What is his true position? I might refer to the published statement of his views in his remarks to a delegation of Virginians the other day, in which he explicitly declared his opinion that only loyal men should be appointed to office; but I prefer to take his latest authentic written declarations. I shall read from his veto message. I find in that document the following:

"I hold it my duty to commend to you, in the interests of peace and in the interests of the Union, the admission of every State to its share in public legislation, when, however insubordinate, insurgent, or rebellious its people may have been, it presents itself, not only in an attitude of loyalty and harmony, but in the persons of representatives whose loyalty cannot be questioned under any existing constitutional or legal tests.

Such is the language of the President in his veto message. Can it be misunderstood? Can it be misrepresented? What are existing constitutional and legal tests but the oath required by the Constitution and the still stronger test oath prescribed by law?

Having stated what he recommends, the President then states what he is opposed to, as follows:

"It is plain that an indefinite or permanent exclusion of any part of the country from representation must be attended by a spirit of disquiet and complaint. It is unwise and

"dangerous to pursue a course of measures which will unite a very large section of the country, against another section of the country, however much the latter may preponderate. The course of emigration, the development of industry and business, and natural causes will raise up at the South men as devoted to the Union as those of any other part of the land. But if they are all excluded from Congress; if, in a permanent statute, they are declared not to be in full constitutional relations to the country, they may think they have cause to become a unit in feeling and sentiment against the Government.

This is what the President is opposed to. We have, therefore, what he recommends and what he disapproves. He recommends the admission to Congress of loyal men who can take the required oaths, provided they come from States which present themselves in an attitude of harmony and loyalty. He disapproves of a permanent or indefinite exclusion of all representation, regardless of the loyalty of the representative or the people. Here, then, the issue is fairly presented. How could he state it more distinctly?

Yet we are daily told that the President desires to throw wide open the doors of Congress to blood-handed rebels. Go where you will—in the halls of representation as well as in the public press—you will find the opponents of his policy stating the question in this form.

I have attempted to state the vague, indistinct, indefinite, undecided, and uncertain policy of those who dissent from the President's policy. It is not my fault that it has that character. I have read from their various opinions. If they are uncertain and indistinct and difficult to define, certainly it is not the fault of the opponents of those opinions.

Mr. President, what then are the two great systems of policy with regard to reconstruction and reunion on which the minds of the people of this country are to-day divided? One of these systems, known, by way of distinction, as that of the President, is indicated in the words which I have cited from his veto message. It contemplates a careful, cautious, discriminating admission of a loyal representation from loyal States and districts in the appropriate House of Congress, by the separate action of each, every case to be considered by itself and decided on its own merits. It recognizes the right of every loyal State and district to be represented by loyal men in Congress. It draws the true line of distinction between traitors and true men. It furnishes to the States lately in rebellion the strongest possible inducement to loyalty and fidelity to the Government. It "makes treason odious," by showing that while the traitor and the rebel are excluded from Congress, the loyal and the faithful are cordially received. It recognizes and rewards loyalty wherever it is found, and distinguishes, as it ought, between a Horace Maynard and a Jefferson Davis.

What is the other policy? It contemplates the entire exclusion of representation in either House of Congress from any State lately in rebellion, irrespective of its present loyalty or the character of its people, until the adoption of certain measures not definitely stated, whose advocates agree neither as to the measures proposed nor in the reasons given for their support—this exclusion to continue for an indefinite and unlimited period of time, declared by some to be for five years, by some thirty years, and by some in a certain contingency *forever*; the entire region comprised within the eleven seceding States, including Tennessee, to be held meanwhile as conquered territory, and to be governed as subject provinces by the central power, and the people thereof to be ruled as vassals, liable and subject necessarily at all times to taxation, while thus wholly deprived of representation and of every right of self-government.

And now, to render certain this policy—or at least in view of it—it is proposed by the resolution now under consideration to enact, so far as such a resolution can enact, that neither House of Congress shall admit a member from any one of the States lately in rebellion, whatever may be his own past or present character or conduct, and however true and loyal may be the people by whom he is elected, until consent is given, by an act of Congress, passed by both Houses and signed by the President, in the face of the express provision of the Constitution, that "each House shall be the judge of the elections, qualifications, and returns of its own members."

These, Mr. President, are the two systems of policy now presented for the consideration of this country. One or the other must be adopted by the Government. All minor issues, and all intermediate views and opinions, must gravitate toward and be absorbed by one or the other of these great commanding systems of policy; and all questions of local interest or of minor details in the work of reconstruction become therefore unimportant, and may be left out of consideration.

I have stated what I believe to be the true issue in the briefest possible form of words. Here, in my judgment, is the whole of this vast question which is to agitate the public mind of this country, and the decision of which is to shape and control its

governmental policy for a long period of years. All points of mere detail in regard to it will be lost sight of and forgotten in view of the vast and overwhelming idea of the permanent and fraternal reunion of the people of every one of those States under a common flag and a common representative Government. It is impossible, in the nature of things, that the public mind should be occupied by any other political question. Until this is decided, finally and forever, no personal or party consideration can divert the eager attention of the people from the exclusive investigation of this question. Nor can any thoughtful mind doubt as to the final decision. Before the war the love of the Union was the passion of the loyal national heart, and now that the war is over its passion will be reunion. For a brief period the dissevered sections of our country may be held apart by the main force of party and of faction, but every day the mutual attraction of the separated parts is growing stronger and more irresistible. If there are any who attempt to hold them asunder their fate will be that of Milo:

"The Roman, when he rent the oak,
Dreamed not of the rebound."

They may be crushed, but the Union will be restored under a Constitution amended and purified, by which slavery is forever abolished, and freedom, with all its incidents, forever guaranteed.

Believing the first-named policy to be that of President Lincoln, as has been conclusively proved by the distinguished Senator from Wisconsin, [Mr. DOOLITTLE,] and that in adopting it President Johnson has but followed in the path of his predecessor; and believing also that this policy is but a continuation of the great struggle in defense of the noble cause of the Union, for which President Lincoln and all his martyred brethren died, I declare my confident trust that the people will support and uphold Andrew Johnson in its advocacy and defense, as in the darkest days of the war they supported and upheld Abraham Lincoln.



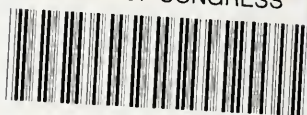
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